

ATTORNEY GENERAL[61]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 715A.9A(6), the Attorney General hereby gives Notice of Intended Action to adopt new Chapter 35, "Identity Theft Passport," Iowa Administrative Code.

Iowa Code section 715A.9A permits the Attorney General to issue an identity theft passport to a person who is a victim of identity theft as described in Iowa Code section 715A.8 and who has filed a police report with any law enforcement agency citing that the person is a victim of identity theft.

Iowa Code section 715A.9A(2) provides that an identity theft victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through the law enforcement agency. That section also requires the law enforcement agency to forward the police report and identity theft passport application to the Attorney General, who must process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate.

Iowa Code section 715A.9A(3) provides that the victim may present the passport to a law enforcement agency to help prevent the victim's arrest or detention for any offense committed by someone other than the victim who is using the victim's identity and to a creditor of the victim to aid in the creditor's investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity.

Iowa Code section 715A.9A(4) provides that a law enforcement agency or creditor may accept the passport from the victim and may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim.

Finally, Iowa Code section 715A.9A(6) requires the Attorney General to adopt rules necessary to implement section 715A.9A, which must include a procedure by which the Attorney General shall ensure that an identity theft passport application has an identity theft claim that is legitimate and adequately substantiated.

The primary purposes of the proposed rules are as follows: to define certain terms needed to implement Iowa Code section 715A.9A and these rules, including but not limited to definitions for "identity theft" and "victim"; to state the procedure for the application, processing and issuance of an identity theft passport; and to provide the form to be furnished by law enforcement to persons who wish to apply for identity theft passports.

Any interested person may make written suggestions or comments on these proposed rules on or before February 17, 2009. Such written materials should be directed to Marti Anderson, Director, Crime Victim Assistance Division, Department of Justice, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 715A.9A.

The following amendment is proposed.

Adopt the following new 61—Chapter 35:

CHAPTER 35 IDENTITY THEFT PASSPORT

61—35.1(715A) Definitions.

"*Creditor*" means a person or entity who is owed money or property by another person via the extension of credit to that other person to defer payment of debt, to incur debt and defer its payment, or

to purchase property or services and defer payment therefor, or a person or entity to whom a creditor's right to payment has been assigned.

"Division" means the crime victim assistance division in the attorney general's office.

"Division director" means the director of the crime victim assistance division in the attorney general's office.

"Identity theft" means the commission of the offense of identity theft, as stated in Iowa Code section 715A.8(2), which includes when a person fraudulently uses or attempts to fraudulently use identification information of another person, with the intent to obtain credit, property, services, or other benefit.

"Law enforcement agency" means an agency that employs peace officers.

"Peace officer" means the same as defined in Iowa Code section 801.4(11).

"Person" means an individual.

"Report of identity theft" means a request by a person to a peace officer in any jurisdiction described in Iowa Code section 715A.8(5) for the peace officer to take a report regarding an alleged commission of identity theft against the person.

"Victim" means a person who alleges that identity theft has been committed against the person.

61—35.2(715A) Application for identity theft passports.

35.2(1) Completion of application.

a. A person who has filed a report of identity theft may apply for an identity theft passport through the law enforcement agency to which the report was made.

b. An application for an identity theft passport shall include the following:

(1) Completion by the person, or by another on behalf of the person, and by the law enforcement agency, of the identity theft passport application form and the identity theft verification form set out in rule 61—35.8(715A), along with any documentation supporting the claim that the person is a victim of identity theft.

(2) A copy of the report of identity theft made to the law enforcement agency.

(3) Photographic identification of the victim in one of the following formats in order of preference:

1. A copy of the victim's current driver's license or state-issued nonoperator's identification card.

2. A current photograph of the victim certified as valid by signature of the law enforcement investigator who received the report of identity theft.

c. Upon completion of the application for an identity theft passport, the law enforcement agency which received the application shall forward it to the crime victim assistance division of the office of the attorney general.

35.2(2) Confidentiality of application. An application made with the attorney general shall be confidential and shall not be a public record subject to disclosure under Iowa Code chapter 22.

61—35.3(715A) Issuance of identity theft passports.

35.3(1) Upon receipt of a completed application for an identity theft passport, the division shall review the application and determine whether to issue the applicant an identity theft passport. In determining whether to issue the identity theft passport, the division shall consider all the facts and circumstances reported in the application, any recommendations received from the law enforcement agency to which the report was made, and any other facts that the division deems necessary to make the determination.

35.3(2) An identity theft passport shall be in the form of a card or certificate as determined by the attorney general.

61—35.4(715A) Usage of identity theft passports. An identity theft victim may present the passport to:

35.4(1) A law enforcement agency to help prevent the victim's arrest or detention for any offense committed by someone other than the victim who is using the victim's identity, and

35.4(2) A creditor of the victim to aid in the creditor's investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity.

61—35.5(715A) Acceptance of identity theft passports. A law enforcement agency or creditor may accept an identity theft passport from the victim and may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim.

61—35.6(715A) Expiration of identity theft passports. An identity theft passport issued by the office of the attorney general shall be valid for a period of five years from the date of issuance or renewal. The victim to whom an expired identity theft passport was issued may reapply to the office of the attorney general for renewal of the identity theft passport within 30 days after its expiration. The office of the attorney general may renew the identity theft passport in the same manner that initial passports are issued, as outlined in rule 61—35.3(715A).

61—35.7(715A) Revocation of identity theft passports.

35.7(1) If the division determines that an identity theft passport which has been issued should not have been issued, the division shall notify the person to whom the identity theft passport was issued of the intended revocation of the identity theft passport and the reasons for the intended revocation.

35.7(2) The person who has received a notice of intended revocation of an identity theft passport may request reconsideration of the intended revocation. The request and all information in support of a reconsideration of the intended revocation shall be submitted to the division director within 30 calendar days of the mailing date on the notice of intended revocation.

35.7(3) The division director will issue a decision regarding the reconsideration of the intended revocation of the identity theft passport within 30 days of receipt of the request for reconsideration whenever possible. The decision of the division director regarding the revocation of the identity theft passport constitutes final agency action.

35.7(4) If, after notice, the division determines that the identity theft passport is revoked, the division shall notify the person of the revocation in a mailing to the person's last-known residential address.

35.7(5) A person shall not use a revoked identity theft passport for any purpose.

61—35.8(715A) Identity theft passport application and verification forms.

35.8(1) *Identity theft victim application and affidavit.* The following form may be used to apply for an identity theft passport.

**Iowa Attorney General's Office
Identity Theft Victim Application and Affidavit**

Iowa Code section 715A.9A(2): A victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through the law enforcement agency. The law enforcement agency shall send a copy of the police report and the application to the attorney general, who shall process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate.

Section I: Victim Information	
a. Full given name: _____	
b. Common use name: _____	
c. Aliases: _____	
d. Birth date: _____	e. Social Security Number: _____
f. Driver's License Number: _____	

g. Street address: _____
h. City: _____ State: _____ Zip Code: _____
i. Your home telephone number: _____

Section II: Crime Information

a. Date(s) of identity theft: _____
b. Item(s) stolen: _____
c. Location of crime: _____ d. Date(s) reported: _____
e. Law Enforcement Agency: _____
f. Name of suspect, if known: _____
g. Relationship of suspect to victim: _____
h. Other information (use additional page(s) if necessary): _____

Section III: Other Information to Be Supplied Before a Passport May Be Issued

- a. A copy of the victim's current driver's license or state-issued nonoperator's identification card; or, if neither is available,
b. A current photograph of the victim certified as valid by signature of the law enforcement investigator who received the report of identity theft.

By signing this affidavit, I attest that the information provided above is true and accurate. I acknowledge that I did file an accurate and true law enforcement report of this incident(s).

Signature

Date

35.8(2) Identity theft law enforcement report verification. The following form must be completed by the investigating officer and submitted in conjunction with the identity theft application and affidavit.

**Iowa Attorney General's Office
Identity Theft**

Law Enforcement Report Verification

Iowa Code section 715A.9A(5): An application made with the attorney general under subsection 2, including any supporting documentation, shall be confidential and shall not be a public record subject to disclosure under chapter 22.

Section I: Law Enforcement Agency

a. Name of Law Enforcement Agency: _____
b. Law Enforcement Agency telephone number: _____
c. Name of Investigating Officer completing this report: _____

Section II: Information Requested from Law Enforcement Agency

a. Did the victim named in the attached Identity Theft Application and Affidavit report to your law enforcement agency the crime of identity theft? ☐ Yes ☐ No
b. Date of report: _____ c. LE case number: _____
d. Has a suspect been identified? ☐ Yes ☐ No
e. If yes, name of suspect: _____
f. Have charges been filed? _____

g. Is issuance of an Identity Theft Passport warranted in this case? ☐ Yes ☐ No

h. Other information (use additional paper if necessary): _____

Signature of Investigating Officer

Date

35.8(3) *Submission of documentation.* In order to be considered for an identity theft passport, a victim must submit the following documentation to the Crime Victim Assistance Division, Ground Floor, Lucas State Office Building, Des Moines, Iowa 50319:

- a. The Identity Theft Victim Application and Affidavit form, signed by the victim.
 - b. The Identity Theft Law Enforcement Report Verification form, signed by the investigating officer.
 - c. A copy of the law enforcement agency's investigative report.
- These rules are intended to implement Iowa Code section 715A.9A.